

Concurrent to the review and approval of a subdivision application for a property known as the Pyrch Property in West Linn OR, the following is a description of and request for variance approvals for code items related to the development.

Project Description:

The 2 acre site is located on the North edge of Rosemont Rd between Gregory and Linn Lane. The house of the original owner and longtime West Linn citizen (Dr Pyrch) is located on the property.

The existing site is rectangular with the long axis along Rosemont Rd (420Ft) and the shorter axis in the North South direction (205 Ft). (see attached site plan sheet C3.0 Subdivision Application)

Several trees have been planted on the property in the past and a significant tree plan has been established by the City arborist. The developer generally agrees with the tree plan, will attempt to preserve as many of the trees as possible, and has retained a project arborist to provide recommendations as to how to best preserve the trees. (see attached tree plan (sheet C5.0 Subdivision Application)and arborist report)

The four lots to the East of the site are provided access by a single private drive. This provides the opportunity to implement a small grouping of homes that will vary from the norm of two story, larger homes in the newly developed R10 zones of the City. Along with the preservation of as much of the original family home, a grouping will be provided to accommodate single level, moderate sized homes that can be used by families and are also conducive to senior living.

The homes will have less emphasis on “back yards” and more emphasis on more compact yard areas or shared areas and the provision of added security by having all entries to the homes as visible as possible to one another. Active outdoor areas will be provided in the “fronts” of the homes and entries will often be incorporated into them.

A strong sense of immediate neighborhood will be achieved and the added security of more “eyes” will be welcomed by the four families.

The site has two locations of natural drainage (NW and NE) corners and the natural drainage path is to the East and North towards Bolton and/or Barlow Creek. Other adjacent drainage routes (to the South across Rosemont Rd) are situated at higher elevations which would require the unnatural pumping

of storm water. By utilizing the latest techniques of Rain Garden filtration and detention, the overflow from these facilities is minimized.

Variance Item Number 1 : Lot Depth

CDC Chapter 11.070 (4) requires that lots in an R10 zone have an average depth of more than 90 feet.

CDC Chapter 85.200(7)(d) requires that, for flaglot configurations, the depth be considered perpendicular to the main access street and parallel to the “stem” of the flag lot.

Under these interpretations, the some of the proposed lots do not comply. Lot No. 7 has an average depth of 78.37 ft, Lot No. 6 has an average depth of 87.15 ft, and Lot No.4 (although not a flag lot) has an average depth of 85 ft.

Request: Lots No 4, 6, and 7 be approved as submitted with the lot depths described above. Approval for Lot 7 is more than a 10 foot variance and therefore requires a Class II variance while approval of Lots 4 and 6 are less than 10 feet and can be granted as a Class I variance.

Approval Criteria for Variance Number 1: Lot Depth (CDC Chapter 75.060)

A. “Exceptional or extraordinary circumstances....”

As described above, the proposed subdivision plan has seven R10 lots along with two tracts for rain gardens and two private access ways services the lots. Due to the topography which dictates where the Rain Gardens will work best , the rectilinear existing parcel with a narrow depth, the desire to preserve as much of the existing residence as possible, and a desire to preserve as many significant trees as possible, the depth variance is necessary.

The location of rain gardens at the low points of the site is necessary to provide a natural, efficient gravity drainage system that can best utilize the state of the art rain gardens for storm water storage and treatment. These key locations create further restrictions as to the design of the lots which result in the depths that are proposed.

The rectilinear and existing depth of the property also limits the options of providing North South 90 foot deep lots. B preserving the existing residence, a further limitation is created. This is especially true in the case of Lot No. 4 where the majority of significant trees are sited and intended to be saved.

B. "... Preservation of Property Right....."

The requested variance is necessary to allow the subdivision of requirements of the CDC. The proposed design will allow the creation of lots of a quality similar to those which have been created to the North and West of the property on similarly zoned land.

Failure to grant the request for relief of the Lot Depth will result in one or more of the following: less lots, water treatment of a less preferred nature, less preservation of significant trees, and or less preservation of the existing home.

C. "... the Variance will not be materially detrimental to the Purposes and Standards of this Code."

The subject property is bordered on two sides (West and North) by previously subdivided and developed property. The adjacent property to the South has been substantially developed and there are two existing residences to the East on properties that may support further development.

Due to the relative small nature of this subdivision, its position as a "last to be, or later" development, and the fact that there are no internal connections from this property to the existing neighboring developments, granting of this variance will have no material detriment to the adjacent properties.

The granting of the variance will actually allow for a better design response that better meets the material Purpose and Standards of the Community Development Code as describe in item B above.

D. " The Variance Request is the Minimum Variance which would Alleviate....."

As described above the dimensional variances requested are for a total of three lots, with the largest variance at 13% of the required 90 feet and the smallest variance at 3.2% of the requirement.

Efforts have been made to keep the designed lots as close to the standards as possible while still allowing for the quality of lots that meet or exceed the standards for the community.

E. "The Exceptional and Extraordinary Circumstances does not Arise from a Violation of this Code"

None of the exceptional and extraordinary circumstances described above in item A arise from a violation of the CDC. Rather, these circumstances arise from the location of the existing residence, the location of natural storm collection and treatment areas, the desire to preserve significant trees and the shallow depth of the property.

F. "The Variance will not Impose Physical Limitations on other properties or uses in the area...."

Care has been taken to insure that the variance request will not impose limitations on other properties or on future use of neighboring vacant or undeveloped properties.

Variance Item Number 2 : Fence or Wall Height

CDC Chapter 44.020 (A)(1) allows for fence or wall heights as follows:

- a. in front yard area not to exceed 3 feet
- c. in side yard area which abuts a street and it is within that portion of the side yard which is not also a portion of the front yard setback area not to exceed six feet

Lots 1-4 of the proposed subdivision are adjacent to Rosemont Rd, an arterial street. In order to provide an opportunity for these lots safely accommodate quality homes and with a degree of noise buffering, the three foot max height for Lots 1-3 is requested to be increased to a six foot max height.

The houses on lots 3-6 are intended to create a strong sense of immediate neighborhood as described in the Project Description above. With less emphasis on backyards and more on front yard, entry, exposure to adjacent neighbors is both a desired result and concern. This will be addressed in the design of the residences. Since these deck and/or courtyard areas will also be adjacent to both active areas such as living areas and passive areas such as bedrooms that are on the "front" exposure, there is need to provide screening at varying heights from three to six feet.

Request: The wall heights on the front areas adjacent to Rosemont Rd be allowed not to exceed six feet for Lots 1-3. Lot 4, due to the condition of the Rosemont Rd exposure being the side yard may not require a variance to continue the not to exceed six foot height. All requirements for clear vision (CDC 44.020(A)(1)(a) are to be satisfied.

Wall heights for the front yard areas of Lots 5 and 6 are requested to not exceed six feet.

Approval Criteria for Variance Number 2: Fence/Wall Height

A. "Exceptional or extraordinary circumstances...."

As described above the project is located adjacent to and to the North of Rosemont Rd which is an arterial street. A variance that would allow a fence/wall to be constructed adjacent to this arterial street will support the goal of providing safe and noise abated residential lots. Yard areas could be accommodated without the dangerous exposure to the highly travelled arterial and a larger degree of privacy /noise buffering will be achieved for the residents.

By allowing the interior Lots 5 and 6 to have up to six foot high Fence/walls in their "front yard" the unique relation of the two flag lots will still allow the close knit and "front facing orientation that is described above by allowing for more screening/privacy in some of the area where corresponding uses are planned within the residences. It should also be noted that these two lots are lower than the adjacent lots to the South and will already have greater exposure on the "street" and within the cluster of homes.

B. "... Preservation of Property Right....."

Allowing the fence/wall height on adjacent to Rosemont Rd to not exceed six feet will support the quality of residential land use that is both appropriate in West Linn and is prevalent in the surrounding area. The property to the West (Gregory Heights) was developed in a similar manner. A solution that would not require the variance would entail the reconfiguration of the lots and a) be less efficient with less lots, b) make utilizing the natural low corners for rain gardens as opposed to treatment/retention ponds for storm water, and c) create further hardship in preserving some very large specimen significant trees (giant sequoias at the South corners).

By allowing a greater variety of fence/wall height in the "front" yard areas of the two Easterly flag lots (Lots 5&6), these lots will better accommodate placement of active and passive interior uses while still promoting a strong neighborhood sense with the close grouping of the four homes on the private

street. Under normal circumstances areas such as first level bedrooms may be screened for privacy and this is be allowed under the requested height variance.

- C. "... the Variance will not be materially detrimental to the Purposes and Standards of this Code."

Precedent has been established on Rosemont Rd at Gregory Heights for the height variance on lots 1-3. A high quality landscaped wall at this location will provide sound attenuation and safety from the noise and traffic of the arterial street.

The ability to construct a high fence/wall on the front yard areas of lots 3-6 will only increase the individual quality of the homes on these lots. The exceptional and extraordinary circumstance that causes the front yard of these lots to be interior to the street and adjacent of neighboring side yards is due to the configuration of the original parcel, the desire to utilize rain gardens, and the desire to preserve trees.

None of the variance requests for the front yard height on lots 4-6 are adjacent to the street. All are internal to the development and none are facing adjacent front yard area of another lot.

No detriment will be caused to the purposes and standards of the Community Development Code and in fact, the purposes are reinforced by the variance.

- D. The Variance Request is the Minimum Variance that would Alleviate the Exceptional and Extraordinary Circumstance.

The variances requested is to allow up to the height of 6ft. In the case of the fence/wall on Rosemont Road, this is requested to allow for a wall that will vary in height to respond to the conditions of the individual homes where this may be determined (lots 3 and 4) and at the entries to the private drives (two) in order to assure proper sight distances are provided.

The result will be a wall height that varies and give more exposure where appropriate for the use(s) of the lot and their relation to the arterial street.

The same will be evident with the variance for the internal front yard fence/wall height of lots 4-6.

It will be critical in order to support a final design for the Rosemont Rd exposure and the internal exposures that a variety of heights from 3ft to 6ft be available.

- E. The Exceptional and Extraordinary Circumstance does not arise from a violation of this code.

None of the exceptional and extraordinary circumstances described above in item A arise from a violation of the CDC. Rather, these circumstances arise from the location of the existing property adjacent to an arterial road, the location of natural storm collection and treatment areas, the desire to preserve significant trees and the shallow depth of the property.

- F. "The Variance will not Impose Physical Limitations on other properties or uses in the area...."

Care has been taken to insure that the variance request will not impose limitations on other properties or on future use of neighboring vacant or undeveloped properties.

Variance Number 3: Significant Trees, Preservation and Removal

CDC Chapter 55.100 B (2)(b) of the Community Development Code is relevant to the proposed project.

The CDC describes the procedure to identify and document Significant trees on the site. This has been accomplished by the City Arborist and sheet C5.0 (Tree Protection Plan) of the Subdivision application shows these trees.

The CDC provides that the City may require that Significant Trees up to 20% of the site area may be required to be preserved.

Although sheet C5.0 of the Subdivision application indicates that the proposed removal of the two trees indicated still leaves over 20% of the site with significant trees, this data was computed on the net site area and it is not clear if a variance is required.

For the sake of clarity, we have prepared and submit the following should a variance or other review and approval be required for the removal two trees and to describe the treatment to preserve other trees.

Request: Certain treatments be allowed to preserve Significant Trees in the SE corner of the property (due to required widening of Rosemont Rd), at the NW and NE corners to allow for the construction of rain gardens. Permission to remove two trees on lot 4 (SE lot) is also requested.

Approval Criteria for Variance Number 3: Significant Tree Preservation and Removal

A. "Exceptional or extraordinary circumstances...."

The topography of the site dictates that required storm detention and treatment be accomplished in the NW and NE corners of the site (the low points). This creates a potential conflict with the trees identified in these areas.

By adjusting the shape of the rain gardens in these areas we are able to avoid damage to the trees. While still within the area of protection, review of the root system by the Project Arborist indicates that the proposed construction of the Rain Gardens at the locations indicated will not cause damage to the trees (see Arborist Report).

The requirement for widening Rosemont Rd by providing added ROW also creates a conflict with preservation of the large Sequoia at the SE corner of the site.

By adjusting the required design of this section of the Rosemont widening and by careful examination of the root system of the tree in question, our project Arborist has determined that minimal damage will result to the tree and that it can be preserved (see Arborist Report and detail of sidewalk treatment at this location).

A large portion of the significant tree area happens to be located on proposed Lot 4 (see attached expanded view of Tree Plan attached). This plan shows the development area within the lot after required setbacks are observed and the impact of the significant tree area. The resulting lot area left for development outside of the tree area and setbacks is 1958sf of a 10,008sf lot.

By careful examination of the lot and the trees and by building under some of the protection area, the lot can be developed if two trees (see sheet C5.0 subdivision application) are removed.

B. "... Preservation of Property Right....."

Allowing the construction of the widened ROW for Rosemont Road in the proposed, modified manner attached (see Subdivision submittal) will allow for the preservation of the large Sequoia Tree at the SE corner of the property. The design/engineering team has performed specific study of this area and our project Arborist has determined that the proposed road construction will allow for the tree's preservation.

Similarly, after the team's investigation of the NE and NW corners of the site, the proposed rain gardens were modified to allow for the preservation of significant trees. This will preserve the trees along the edges of the property.

The removal of the two proposed trees and the allowance to carefully design and construct a home that may be within the protection area of certain trees and under the canopy of some on lot 4 will allow this property to accommodate a quality residence. By examination of the attached "Lot 4 Tree exhibit", it is evident that accounting for the number of significant trees on the site and the required building setbacks will not allow room for a residence without the strategic removal of the proposed trees and placement within the boundaries stated above.

C. "... the Variance will not be materially detrimental to the Purposes and Standards of this Code."

The granting of the proposed variance will allow the developer to actually better comply with the purposes and standards of the Community Development Code.

Significant trees will be preserved and allow for the widening of Rosemont Rd and the placement of Rain Gardens to comply with the storm water policies and standards of the City.

Removal of two trees and careful design and placement of the residence on Lot 4 will result in the preservation of the majority of the significant trees on this area of the site.

D. The Variance Request is the Minimum Variance that would Alleviate the Exceptional and Extraordinary Circumstance.

The minimum request is proposed and will allow for the preservation of trees at the SE, NE and NW corners of the site.

The minimum number of trees proposed to be removed from Lot 4 will allow the site to be developed in a quality that addresses the CDC. with the guidance of the project Arborist.

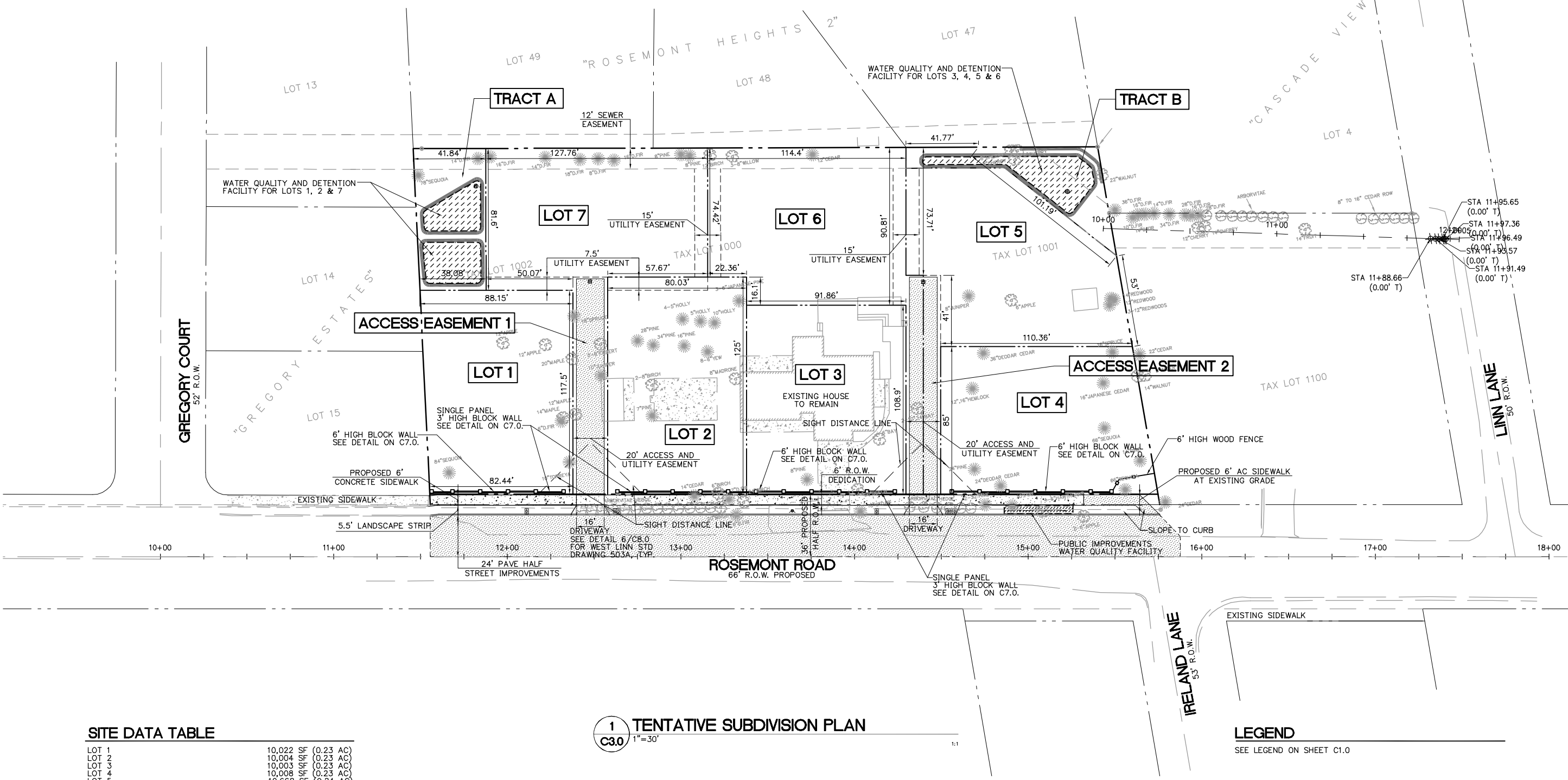
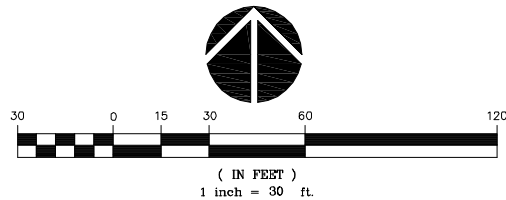
- E. The Exceptional and Extraordinary Circumstance does not arise from a violation of this code.

The exceptional and extraordinary circumstances regarding the significant trees is a result of historical plantings of trees and no code violations were evident.

- F. “The Variance will not Impose Physical Limitations on other properties or uses in the area....”

The variance will serve to preserve trees at the SE, NE and NW corners of the site. These trees are at or near the site boundaries and thus serve as perimeter screening to the adjacent properties. By is mitigated. By allowing for the placement and treatment of the trees (see Arborist Report), the trees will be protected.

By allowing the removal of two trees on Lot 4, the site can accommodate a residence. There are four significant trees identified along the Easterly boundary of Lot 4 (66” diameter Sequoia, 66” diameter Sequoia, 16” diameter Japanese Cedar, and 16” diameter Spruce). Of these trees, only the 16” Japanese Cedar is proposed to be removed. The remaining three trees will preserve the perimeter screening that exists.



SITE DATA TABLE

LOT 1	10,022 SF (0.23 AC)
LOT 2	10,004 SF (0.23 AC)
LOT 3	10,003 SF (0.23 AC)
LOT 4	10,008 SF (0.23 AC)
LOT 5	10,668 SF (0.24 AC)
LOT 6	10,003 SF (0.23 AC)
LOT 7	10,013 SF (0.23 AC)
TRACT A	3,259 SF (0.07 AC)
TRACT B	2,746 SF (0.06 AC)
ACCESS EASEMENT 1 (FLAG AREA)	2,350 SF (0.05 AC)
ACCESS EASEMENT 2 (FLAG AREA)	2,110 SF (0.05 AC)
TOTAL SITE AREA (AFTER 6' DEDICATION)	81,186 SF (1.85 AC)

NOTE: LOT AREAS FOR LOTS 5, 6, AND 7 DO NOT INCLUDE FLAG AREA.

1 TENTATIVE SUBDIVISION PLAN
C3.0 1"=30'

LEGEND

SEE LEGEND ON SHEET C1.0

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Project
ROSEMONT SUBDIVISION
WEST LINN, OREGON

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REVISION	REVISIONS THIS SHEET	REVISION DELTA	CLOSING DATE

SHEET TITLE:
TENTATIVE SUBDIVISION PLAN

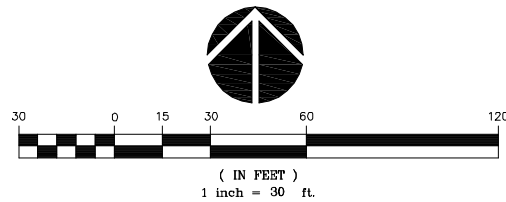
DRAWN BY: MAG
 CHECKED BY: RJH
 SHEET:

C3.0

JOB NO. **2130073.00**

SUBDIVISION APPLICATION - MAY 15, 2013

THE SURVEY INFORMATION SHOWN AS A BACKGROUND SCREEN ON THIS SHEET IS SHOWN FOR REFERENCE ONLY AND IS BASED ON A SURVEY BY ANDY PARIS & ASSOCIATES, INC. DATE: 3/20/13

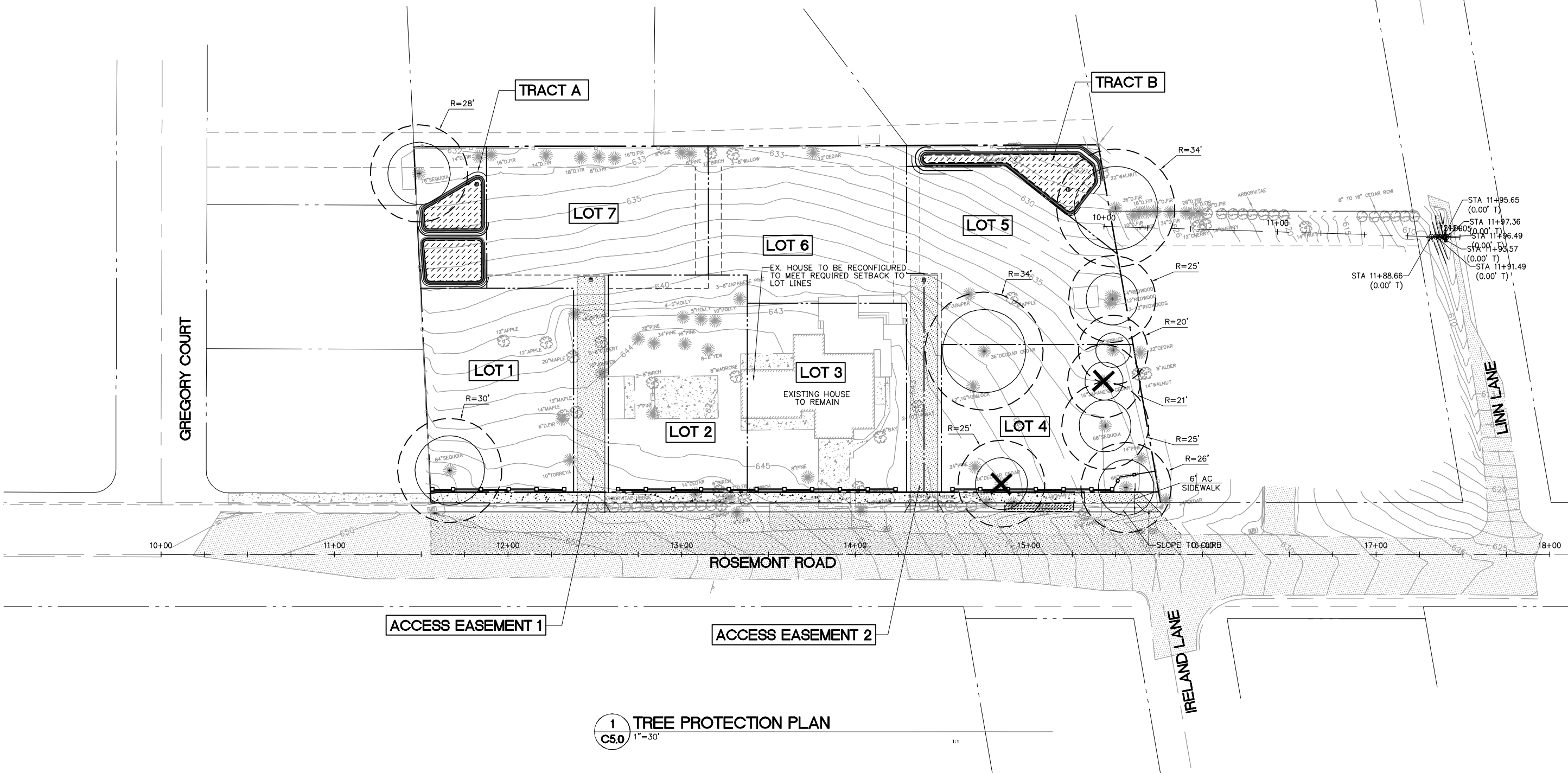


LEGEND

- SIGNIFICANT TREE PROPOSED TO BE REMOVED
- SIGNIFICANT TREE CANOPY
- 10' BEYOND TREE CANOPY

TREE INFORMATION

TOTAL SIGNIFICANT TREE AREA ON SITE (CANOPY PLUS 10 FT): 21,290 SF
 TOTAL SITE AREA (NET OF DEDICATION AND RAIN GARDENS) 75,181 SF
 PERCENTAGE OF SITE COVERED BY SIGNIFICANT TREE AREA: 28%
 TOTAL SIGNIFICANT TREE AREA TO REMAIN ON SITE: 19,052 SF



GROUP MACKENZIE
 Architecture
 Interior Design
 Land Use Planning
 Civil Engineering
 Structural Engineering
 Transportation Planning
 Landscape Architecture

Client:
R+H CONSTRUCTION

Project:
ROSEMONT SUBDIVISION
WEST LINN, OREGON

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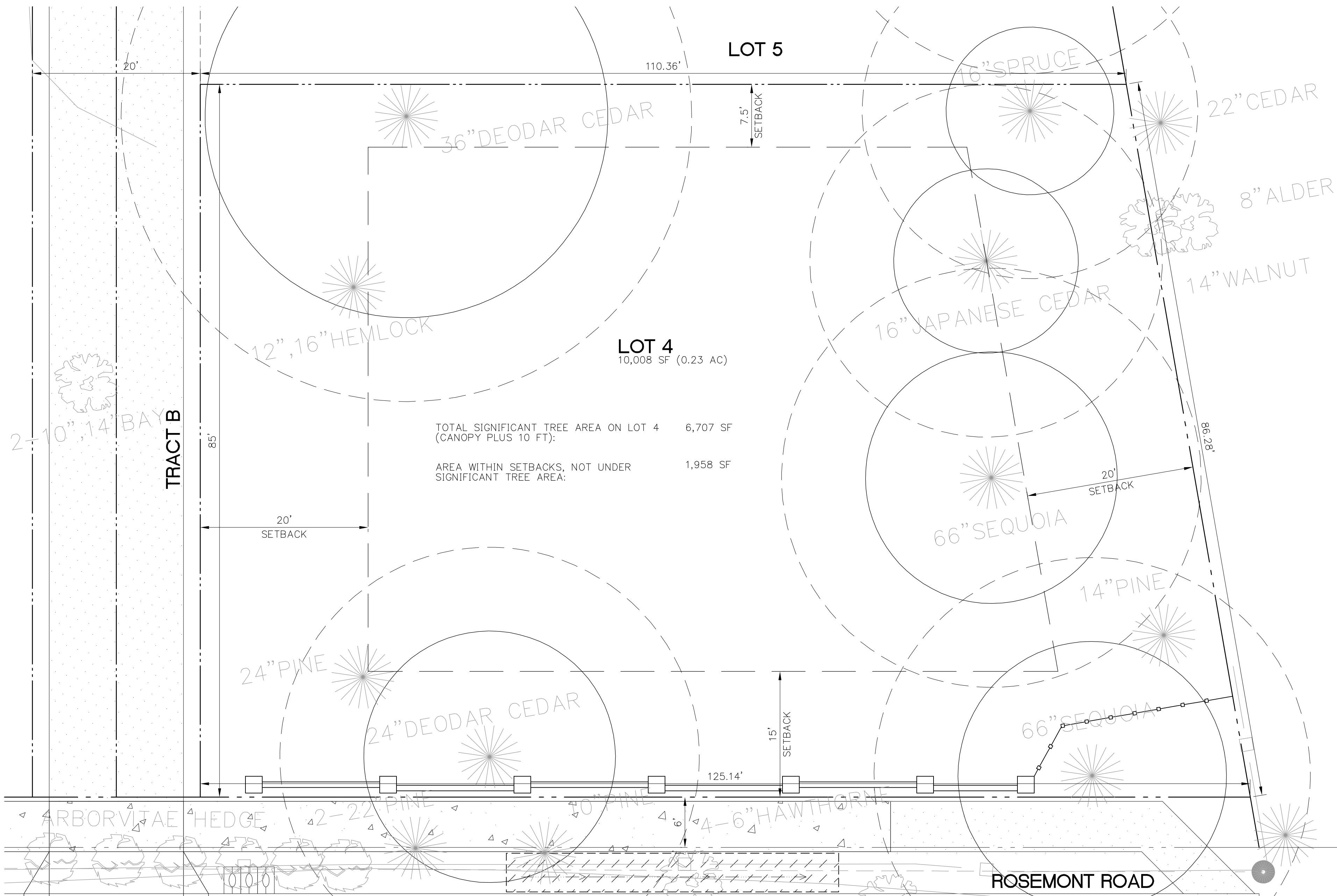
SHEET TITLE:
TREE PROTECTION PLAN

DRAWN BY: MAG
 CHECKED BY: RJH
 SHEET:

C5.0

JOB NO. **2130073.00**

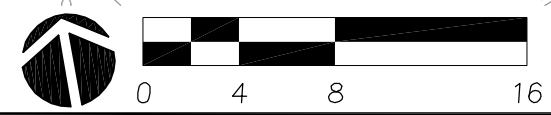
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TOTAL SIGNIFICANT TREE AREA ON LOT 4
(CANOPY PLUS 10 FT): 6,707 SF

AREA WITHIN SETBACKS, NOT UNDER
SIGNIFICANT TREE AREA: 1,958 SF

LOT 4 EXPANDED TREE PLAN



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